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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,979	10/17/2003	Donald E. Weder	8404.011	1386

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EXAMINER

PALO, FRANCIS T

ART UNIT PAPER NUMBER

3644

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

10/687,979

Applicant(s)

WEDER, DONALD E.

Examiner

Francis T. Palo

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/17/03.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☒ Other: non-Final Office Action.

DETAILED ACTION

Specification

The **abstract** of the disclosure is objected to because in the second line of text; "with card" should be –with a card–.

Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities:
Paragraph [0001] should be updated to reflect the patented status of application 10/316,469.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Weder (US 5,205,108) 1993.

Art Unit: 3644

Regarding claim-1:

Weder '108 discloses a method of wrapping a floral grouping with a wrapper having a central opening (Title).

Specifically; Weder discloses providing a sheet of material having design indicia and an opening as cited in the instant claim, (column-1, see Field of the Invention and lines 60-63; also see column-2, lines 35-42).

Weder also discloses the steps of disposing the floral grouping through the opening and wrapping the sheet of material about the floral grouping as cited in the instant claim, (column-3, lines 41-65).

Regarding claims 3 and 12:

The discussion above regarding claim-1 is relied upon.

Weder discloses a square shaped configuration (column-1, lines 60-63) as cited, which is capable of the corner flaring as cited.

Regarding claims 4 and 8:

The discussions above regarding claim-1 and 3 are relied upon.

The instant method of overlapping portions of the sheet of material having a bonding material disposed thereon as cited, is disclosed by Weder at column-3, lines 59-68.

Art Unit: 3644

Regarding claims 5, 9 and 13:

The discussions above regarding claims 1, 4 and 12 are relied upon.

Weder discloses a flat and flexible sheet of material as cited in the instant claims,
(column-2, line-1).

Regarding claims 6, 10 and 14:

The discussions above regarding claims 1, 5 and 13 are relied upon.

Weder discloses polymeric film material as cited in the instant claims,
(column-2, lines 11-19).

Regarding claims 7, 11 and 15:

The discussions above regarding claims 1, 6 and 14 are relied upon.

Weder discloses a film thickness range of from less than about 1.0 mil. To about 30.0
mils as cited in the instant claims, (column-2, lines 55-56).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim-2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weder (US 5,205,108) 1993 in view of Bakker (NL 1005489C) 1998.

Regarding claim-2:

The discussion above regarding claim-1 is relied upon.

Weder is silent as to a card holder assembly as cited in the instant claim.

Bakker teaches a tapered sleeve for a bouquet of flowers having a rectangular pocket for a greeting card (see the abstract) as cited in the instant claim.

It would have been obvious to one of ordinary skill in the art at the time the invention was made, to have modified the sheet of Weder '108 to include a card holder as cited and as taught by Bakker, for the well known advantages of that feature.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patents No. 6,662,497 and 6,499,251.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the method steps of the instant claims are encompassed by and are rewordings of the conflicting claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Jonhson '759 teaches a pocket for displaying a receipt on a paper bag.

Van Den Kieboom '107 teaches a card pocket with a flower display container.

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Landau '782 teaches a slot for a greeting card in a cover for potted plants.

Weder '502 teaches a protective wrapper for a floral grouping having a label attached thereon.

McNaughton '183 teaches a card pocket in a flexible vase.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Francis T. Palo whose telephone number is 703-305-5595. The examiner can normally be reached on T-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J Carone can be reached on 703-306-4198. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Francis T. Palo
Examiner
Art Unit 3644

FP